

ARTICLE III. PASSENGER MOTOR CARRIERS

Sec. 31-101. Transportation policy.

To assure the development and maintenance of a safe, healthy and efficient passenger transportation system for Miami-Dade County, the Commission, County Manager and County staff, in carrying out the duties and responsibilities prescribed in this article, shall consider the following as being in the public interest:

- (1) Reliance on market forces and on actual and potential competition among all transportation modes, so as to provide transportation services at competitive prices.
- (2) Coordination of regulatory decision-making with the transportation improvement plan, and the orderly development of an integrated transportation/transit system for Miami-Dade County so as to ensure the development and maintenance of a transportation/transit system responsive to the needs of the public, in which regulatory decisions are reached fairly and expeditiously, and with consideration of their costs and benefits.
- (3) Improvement of motor vehicle safety.
- (4) Achievement of County, national and State energy conservation goals.
- (5) Reduced concentration of market power, and prevention of unfair, deceptive, predatory or anticompetitive practices.
- (6) Reduction of restrictive regulatory barriers to entry into the industry and promotion of equal opportunities.
- (7) Promotion of the safety and welfare of the residents and visitors of Miami-Dade County who use the services of passenger motor carriers to meet their transportation needs.
- (8) Recognition that a strong, viable, private sector passenger motor carrier industry has a role in efforts to improve transportation mobility.

(Ord. No. 81-17, § 2, 2-17-81; Ord. No. 85-20, § 1, 4-16-85)

Sec. 31-102. Definitions.

For the purpose of this article, the following definitions shall apply:

- (a) *Certificate of transportation* means the holder thereof may engage in providing the transportation services described thereon.
- (b) *Chauffeur* means a duly licensed driver registered with and authorized by the Consumer Services Department to operate a passenger motor vehicle.
- (c) *Commission* means the Board of County Commissioners of Miami-Dade County, Florida.

- (d) *Common carrier* means any motor carrier who holds his services out to the public.
- (e) *Contract carrier* means any passenger motor carrier who is not a common carrier and who repeatedly or continuously transports persons for compensation under written contract with one (1) or more persons.
- (f) *County Manager* means the chief executive officer and head of the administrative branch of the County Government as provided in Article 3 of the Home Rule Charter of Miami-Dade County, Florida.
- (g) *Director* means the Miami-Dade County Consumer Services Department Director.
- (h) *Fixed route or regular route service* means the transportation of persons by a common carrier for compensation on a regular route with a regular schedule between fixed terminals.
- (i) *For compensation* means for money, property, service or anything else of value.
- (j) *Jitney* means any motor vehicle having a maximum seating capacity of fifteen (15) or less, transporting passengers for compensation on a semi-fixed route between fixed terminals not on a fixed schedule basis.
- (k) *Operate* means providing transportation services for compensation utilizing a passenger motor vehicle.
- (l) *Operator* means any person who has been issued a certificate in accordance with the provisions of this article.
- (m) *CSD* means the Miami-Dade County Consumer Services Department.
- (n) *Passenger motor carrier or motor carrier* means any person owning, controlling, operating or managing any motor vehicle used in the business of transportation of persons for compensation.
- (o) *Passenger motor vehicle or motor vehicle* means any chauffeur-driven motor vehicle engaged in the transportation of persons and their accompanying baggage, if any, for compensation over the public streets, but excludes motor vehicles engaged solely in providing special transportation services for the Miami-Dade Transit Agency pursuant to a contract with Miami-Dade County. Motor vehicles used to provide special transportation service pursuant to a contract with Miami-Dade County are subject to regulations contained in Article IV of this chapter.
- (p) *Permit* means an operating permit authorizing the holder thereof to utilize the motor vehicle described in said permit for the transportation of passengers as authorized by a certificate issued pursuant to this article.
- (q) *Person* means any individual, corporation, firm, partnership, limited partnership, association or joint stock association.

- (r) *Rates or fares* means the charges established pursuant to this article for the transportation services provided by an operator.
- (s) *Registration* means a chauffeur's registration authorizing the holder thereof to operate passenger motor vehicles subject to the provisions of this article.
- (t) *Special operations* means the transportation of persons in a motor vehicle to a common destination or series of destinations where the person may be charged as an individual or as part of a group, including but not limited to charter, sightseeing, or subscription service, not between fixed terminal or on a regular route.
- (u) *Street* means any public street, avenue, road, boulevard, alley, lane, highway, sidewalk, public park, viaduct or other public place located in the County and established for the use of vehicles.
- (v) *Public interest* means a determination based on the following criteria, that transportation benefits will accrue to the community, transportation services, the public who presently or in the future utilize the passenger motor carrier industry to meet transportation needs, and adopted community development policy and that determination is consistent with the transportation policy statement contained in this article.
- (w) *Charter service* means the transportation of a group of persons pursuant to a common purpose and traveling under a single contract involving the exclusive use of a motor vehicle.
- (x) *Core transit or transit corridor* means the area one-fifth (1/5) of a mile on each side of the street on which high service level of fixed route or jitney service is being legally provided.
- (y) *Limited certificate of transportation* means the holder thereof may engage in providing transportation services as described in a contract with the Miami-Dade Transit Agency for the provision of transportation services for so long as such contract is in effect.
- (z) *Reserved.*
 - (aa) *Paratransit services* mean any transportation services provided for compensation to passengers with disabilities by motor carriers between specific origins and destinations selected by an individual user at a certain time that is agreed upon by the user and the service provider.
 - (bb) *The Americans with Disabilities Act of 1990 or the ADA* means the civil rights act signed into law on July 26, 1990 as Public Law 101-336, 104 Stat. 327, as the same may be amended from time to time.
 - (cc) *The ADA-defined area of Miami-Dade County* means the complementary paratransit service area as required by the ADA or any federal regulations

established pursuant to the ADA. The service area includes an area with a width of three-fourths of a mile on each side of each of Miami-Dade County's fixed bus routes and an area consisting of a circle with a radius of three-fourths of a mile around each Metrorail station.

- (dd) *Paratransit passenger* means an individual receiving paratransit services who has a physical or mental impairment as defined by the ADA that substantially limits one (1) or more of the major life activities of such individual, has a record of such impairment or has been regarded as having such impairment.

(Ord. No. 81-17, § 3, 2-17-81; Ord. No. 85-20, § 1, 4-16-85; Ord. No. 87-11, § 1, 3-17-87; Ord. No. 90-67, § 1, 7-10-90; Ord. No. 91-130, § 1, 1-5-91; Ord. No. 95-42, § 1, 3-7-95; Ord. No. 95-221, § 3, 12-5-95; Ord. No. 02-1, § 1, 1-29-02)

Sec. 31-103. Certificate of transportation.

(a) *Required.* From and after the effective date of this article, it shall be unlawful for any person to use, drive or operate or to cause or permit any other person to use, drive or operate any passenger motor carrier vehicle for compensation upon the streets of Miami-Dade County without first obtaining a Miami-Dade County certificate and maintaining it current and valid, pursuant to the provisions of this article, unless specifically excluded from this article.

(b) *Out-of-county origin excepted.* Nothing in this article shall be construed to prohibit:

(1) Discharge within Miami-Dade County of any passenger lawfully picked up in another County and lawfully transported into Miami-Dade County including preticketed round trips originating outside Miami-Dade County which are completed within a single twelve-hour period.

(2) Pick up of a paratransit passenger by a provider of paratransit services that is duly licensed and legally authorized to provide paratransit services in a county adjacent to Miami-Dade County, provided that such county has determined that the passenger is eligible for paratransit services and such passenger is picked up within the ADA-defined area of Miami-Dade County. A paratransit service provider shall not be required to obtain a Miami-Dade County Certificate of public convenience and necessity for such purpose, nor shall a chauffeur of such paratransit vehicle be required to obtain a Miami-Dade County for-hire chauffeur's registration.

(c) *Application contents.* Every application for a certificate shall be in writing, signed and sworn to by the applicant, and shall be filed with CSD. The statements contained in the application shall become a part of the certificate and may be modified only in accordance with this article. The application shall be on a form provided by CSD and shall contain all information required thereon, including but not limited to:

(1) Sufficient information to identify the applicant.

(2) The class of transportation service to be authorized under this article, routes, termini, schedules, etc., and a brief description of the kinds of and types of vehicles, seating capacity of the vehicles, seating arrangements, and size and gross weight thereof.

- (3) The trade name under which the applicant intends to operate and a description of the proposed vehicle colors, numbers and markings.
- (4) The applicant's management plan including but not limited to maintenance facilities, a system for handling complaints and accidents, a driver training program, insurance coverage, and a communication system.
- (5) The applicant's proposed service standards, including but not limited to days and hours of operation, and passenger services to be provided.
- (6) The applicant's proposed initial public fare and rate structure.
- (7) A record of all present and prior transportation business activities of the applicant during the past five (5) years.
- (8) A record of all crimes (excluding traffic) of which the applicant has been convicted within five (5) years preceding the date of the application. The applicant shall have
- (9) Two (2) credit references including at least one (1) bank where the applicant maintains an active account.
- (10) An investigative and processing fee which shall be nonrefundable.
- (11) An agreement on the part of the applicant to conform to and abide by the provisions of this article and the laws of the State of Florida.
- (12) The applicant's current financial statement. If the applicant has an existing certified financial statement, the most current certified financial statement is required.
- (13) A factual statement indicating the anticipated market to be served and such other pertinent information as the applicant may desire to present to support his application.
- (14) A factual statement supporting the economic feasibility of the services proposed to be provided, including estimated ridership, fare revenue, and operating expenses for the first year of operation.
- (15) An operational plan for implementing the proposed services.
- (16) A factual statement, if applying for jitney or fixed route authority, indicating the economic and ridership effect on any existing fixed route or jitney transportation service providers on the same transit corridor, route or portion thereof.
- (17) A factual statement, if applying for jitney or fixed route authority, that the application is consistent with the criteria and factors contained in subsection (g) of this section.

(18) A public notice which shall contain a brief summary of the subject matter of the application including a brief description of the type of service proposed and the geographical area or route(s) to be served.

(19) For transfer applications only, a statement disclosing the terms and conditions of the proposed transfer, including amount of compensation which has been paid or is payable to the transferor and any other consideration given or to be given to the transferor in connection with the transfer of the certificate of transportation; in lieu of the requirements of this paragraph, the applicant for transfer of the certificate of transportation may submit a notarized copy of the purchase contract which contains all information requested by this paragraph.

(d) *Application review.* The Director shall review and investigate each application and shall reject any application that is not properly filed, incomplete or, where applicable, in conflict with criteria set forth in subsection (g) of this section. Such investigation shall include a Miami-Dade Police Department background check including, but not limited to, past business credit or financial standing and law enforcement records. Application rejection by the Director may be appealed in accordance with Section 31-112(f) of the Code.

(e) *Hearing and notices.* Upon the proper filing of an application under this article for a certificate, or for the transfer or modification thereof, and payment of the required fee, the Director shall give notice to the following: (a) The governing bodies of all affected municipalities within Miami-Dade County; (b) all passenger motor carriers; (c) any other person, office or entity requesting notice.

Any interested person affected by the proposed operation who wishes to intervene in the proceeding shall file with the Director, and serve upon the applicant a formal protest within twenty (20) days after service of said notice. A person who has not filed a formal protest as provided in this section may not appear as a party in the proceeding. If no written protest is properly filed and served as herein provided, the Commission shall dispose of the application after a public hearing. If one (1) or more protests are properly filed and served as herein provided, the County Manager shall appoint a hearing officer and fix a time for an administrative hearing no later than twenty (20) days after the conclusion of the termination date for filing a protest, and shall serve notice of hearing upon the applicant and all persons who have filed a written protest. The County Manager, by regulations, shall establish the procedures for such hearings.

The Director shall submit a report and recommendation on each application to the County Manager. The Director shall base the recommendation on the thoroughness of the application, the competence of the applicant, the criteria contained in subsection (g) where applicable and consideration of the findings of the hearing examiner. The County Manager may require any further investigation or additional information that he deems necessary and shall submit a written report and recommendation to the Commission.

(f) *Public hearings.* The Commission shall hold at least two (2) public hearings each year if required, to consider and take action upon pending certificate applications and transfer applications. CSD shall provide at least twenty (20) days' advance notice of such public hearings to all applicants and all certificate holders by certified mail. In reaching its determination, the Commission shall consider the application, the County Manager's report and recommendation, and matters presented at the public hearing.

(g) *Certification criteria and process.* The Commission, at the conclusion of the public hearing shall determine if the requested certificate of transportation is consistent with the following public interest criteria.

(1) That the applicant is fit, willing and able, in accordance with the requirements of this section, to provide the transportation to be authorized by the certificate and is able to comply with this article and regulation of the Commission.

(2) That the transportation to be provided under the requested certificate is consistent with the public interest.

(3) That the proposed transportation service will improve the quality of transportation available to the public.

(4) That, if applying for jitney or fixed route authority, the proposed transportation will not adversely affect the existing transportation system as a whole or future planned transit service as designated in the most current Miami-Dade Transportation Plan. In particular, it shall be deemed not in the public interest to authorize certificates of transportation for service on actual transit or passenger motor carrier corridors where service presently exists at average frequencies of twenty-nine (29) minutes or less and/or where such service will impair special transportation provided by the passenger motor carrier industry. The provisions of the preceding sentence shall not apply when the applicant is applying for a certificate of transportation to provide jitney or fixed route authority and the Commission finds: (1) that the proposed transportation will not adversely affect the existing transportation system as a whole or future planned transit service as designated in the most current Miami-Dade Transportation Plan; (2) the route applied for has been operated by the applicant for at least five (5) years utilizing at least twelve (12) vehicles during 1997 which were issued permits by the CSD; (3) the fixed or jitney route traverses at least five (5) miles on either NW 7th Avenue or NE 2nd Avenue in Miami-Dade County; and (4) the applicant has held a certificate of transportation issued by Miami-Dade County for at least eight (8) years.

The Commission, after such public hearing, by resolution, may authorize or refuse to authorize the certificate as applied for, or may authorize a certificate with such modifications or upon such terms and conditions as in its judgment the public interest may require.

The County Manager may prescribe rules and regulations consistent with the criteria set forth in subsection (g)(1), (2), (3) and (4) above, for the approval and issuance of emergency temporary certificate. No temporary certificate shall be issued unless the applicant has paid a temporary certificate fee.

(h) *Burden of proof.* In any proceeding under this section, the applicant shall have the burden of providing all of the prerequisites of the issuance of the certificate except that if a protestant objects on the ground that issuance will adversely affect the existing transportation system or impair essential transportation services being provided by the motor carrier industry then, on that issue, the protestant shall have the burden of proof.

(i) *Resolution of approval.* CSD shall issue the certificate as authorized by the resolution.

(j) *Further requirements.* No certificate shall be issued unless the applicant has:

- (1) Paid an annual certificate fee for the right to operate passenger motor vehicles;
- (2) Has presented proof of insurance as required by Section 31-106; and
- (3) Passed all required vehicle inspections.

Failure on the part of the applicant to complete this process within ninety (90) days after notification of approval shall cause the certificate not to be issued and the County's approval to be automatically revoked.

(k) *Form of certificate.* Each certificate shall be on a form developed by CSD and shall be signed by the Director. Each certificate shall contain, at a minimum, the name and address of the applicant, a statement of the transportation service authorized, the passenger capacity of the vehicles to which it applies, and such additional terms, conditions, provisions, and limitations as were authorized in the approval process. All operators holding certificates which are valid as of the effective date of this amendment shall be issued amended certificates which contain no limit on the number of vehicles authorized thereunder.

(l) *Renewal.* All certificates shall be renewed before April 1 of each year by payment of an annual certificate fee. All fees provided for in this section shall be in addition to any other license fees or charges and shall not be prorated for fractional parts of a year. All certificates which are not renewed shall automatically expire and all certificate transportation services rendered thereunder shall immediately cease as of April 1.

On or before March 31 of each year, each operator shall, on application for renewal, certify, on a form provided by CSD, the number of months during the preceding year that he operated and provided the service authorized by his certificate. Failure to certify or to operate for at least eight (8) months during the year period shall result in automatic expiration of the certificate.

(m) *Transfer of certificate.*

(1) No certificate issued pursuant to this article may be sold, assigned, transferred or its ownership structure changed or altered so as to result in a change or the possibility of a change in the control of said certificate to another until the proposed sale, assignment, transfer or change in control shall have been approved by the commission. Any transfer of shares or stock or interest of any person or certificate holder so as to cause a change in the directors, officer, shareholders or managers of such person or certificate holder shall be deemed a transfer or assignment as contemplated in this section and subject to the same rules and regulations as any other transfer or assignment.

(2) The Commission, in considering the proposed transfer of ownership or control of the certificate, by either direct or indirect means, shall determine, upon

evidence submitted by the parties or any other party or person affected by the proposed transfer, whether or not said transfer is contrary to the public interest or if said certificate, in whole or in part, is dormant within the meaning of this article.

(3) The Commission may approve said transfer or refuse to approve said transfer upon such terms and conditions or may reasonably alter, restrict or modify the terms and provisions of such transfer where the same may best serve the public interest.

(4) All such applications for approval of transfers shall be filed on forms provided by the Director and shall be accompanied by payment of a nonrefundable transfer investigative and processing fee. Applications for transfers shall be noticed for public hearing before the Commission in the manner provided by this article for new applicants for certificates and the formal approval of the Commission shall be a condition precedent to any such transfer.

(n) *Modification of certificate.* Every application for modification of a certificate shall be in writing, signed and sworn to by the operator and shall be filed together with a modification processing fee. The application shall be on a form provided by CSD, and shall be noticed for hearing before the Commission in the manner as provided for in this article for applications for a certificate and the formal approval of the Commission shall be a precedent to any modification. Modifications of a certificate shall include changes in service standards, route changes in service standards, route extensions, and similar items which enlarge operating authority.

(o) *Surrender or abandonment of certificate.* An operator may relinquish or abandon all or part of the operating authority provided in such certificate upon written notice to the Director thirty (30) days prior to the effective date of such action, and submission of his certificate. The Director shall, upon his authority, re-issue a certificate containing the residual operating authority unless, in his opinion, the requested changes or the residual authority are not in the public interest, in which case he may institute revocation or suspension procedures.

(p) *Limited certificate of transportation.* A passenger motor carrier proposing to provide transportation services pursuant to a contract with Miami-Dade County for the provision of Miami-Dade Transit Agency services, may satisfy the passenger motor carrier certificate requirements by obtaining a limited certificate of transportation. A holder of a limited certificate of transportation must comply with all requirements of the Miami-Dade County Code pertaining to holders of a Certificate of Transportation. Provided, however, that the requirements of Section 31-103(e) pertaining to hearings, notices, and administrative protest procedures and Section 31-103(f) pertaining to advance notice to certificate holders and applicants of the public hearing at which time the limited certificate of transportation is to be considered shall not apply. The limited certificate of transportation shall only authorize provision of transportation services pursuant to such contract for so long as such contract is in effect. A person who is issued a limited certificate of transportation shall not lease or otherwise assign the right to operate under such certificate to any other person.

(q) The amendments to Section 31-103(g)(4) contained in this section shall sunset on July 5, 1999. Notwithstanding the requirements of the prior sentence, any certificate of transportation issued pursuant to an application approved by the Commission prior to

June 22, 1999 pursuant to Section 31-103(g)(4) as amended by this section shall remain in full force and effect so long as the certificate holder complies with all applicable provisions of the Code.

(Ord. No. 81-17, § 4, 2-17-81; Ord. No. 85-20, § 1, 4-16-85; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 88-118, § 2, 12-6-88; Ord. No. 90-67, § 2, 7-10-90; Ord. No. 90-126, § 3, 11-27-90; Ord. No. 95-42, § 2, 3-7-95; Ord. No. 95-221, § 3, 12-5-95; Ord. No. 98-123, § 1, 9-3-98; Ord. No. 99-72, § 1, 6-22-99; Ord. No. 02-1, § 1, 1-29-02)

Sec. 31-104. Operating permits.

(a) After a person has secured a certificate hereunder and before any motor vehicle shall be operated under authority of such certificate, such person shall make separate application to CSD for a permit for each motor vehicle to be operated pursuant to said certificate. Each permit application shall be in writing, verified by the certificate holder and shall contain the name and address of the applicant, the certificate number and the make, type, year of manufacture, serial number, State license plate number, and seating capacity of each motor vehicle for which a permit is desired. Upon payment of a permit fee, the CSD shall issue to the applicant a permit; provided that any vehicle so permitted complies with the minimum safety requirements set forth in this article, is the type of vehicle authorized by such certificate, and is insured according to Section 31-106.

(b) Each permit issued hereunder shall expire April 1st of each year, and may be renewed upon payment of the fee prescribed in subsection (a) above. It shall be unlawful to operate any vehicle required to have an operating permit without such a current valid permit displayed within the vehicle.

(c) No permit shall be issued for the operation of any vehicle, the condition of which would interfere with or detract from the comfort, convenience or safety of the passengers transported therein. In the event any motor vehicle for which a permit has been issued shall become unsafe to operate or its body or seating facilities become so damaged, deteriorated or unclean as to render said vehicle unfit for public use, CSD may suspend the permit therefor until such time as the condition is remedied; provided, however, that no such suspension shall be effective until the permit holder or vehicle driver has received actual notice of the particular conditions to be remedied.

(d) Each permit issued hereunder shall be separately numbered. The operating permit shall, at all times, be displayed within the vehicle and shall be available for inspection by any authorized personnel or police officer.

(e) Permits issued hereunder shall not be transferable or assignable.

(f) No certificate holder shall reconstruct, alter, modify, add to or otherwise change the body, seating capacity or seating arrangement after a permit has been issued pursuant to this section, unless and until the consent of the CSD shall first have been obtained.

(g) In the event a vehicle permitted pursuant to this section becomes inoperable and is removed from service due to mechanical breakdown or traffic accident, the certificate holder may secure a substitute operating permit for a substitute vehicle, provided such

substitute vehicle meets the requirements of this section. Said substitute permit shall expire and the substitute vehicle shall be removed from service when the inoperable vehicle is repaired and returned to service or on the last day of the month in which the substitute permit is issued, whichever is earlier; provided that another substitute operating permit may be obtained for the next calendar month if the inoperable vehicle is not repaired upon the expiration of such substitute operating permit. A fee shall be charged for issuance of such substitute operating permits.

(Ord. No. 81-17, § 5, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 88-118, § 2, 12-6-88)

Sec. 31-105. Chauffeur's registration.

It shall be unlawful for any person to drive a passenger motor carrier vehicle over any street in Miami-Dade County without first having obtained a chauffeur's registration from the CSD pursuant to Chapter 31, Article V of this Code.

(Ord. No. 81-17, § 6, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 88-118, § 2, 12-6-88; Ord. No. 90-134, § 1, 12-4-90; Ord. No. 91-47, § 1, 4-16-91; Ord. No. 91-125, § 1, 10-15-91; Ord. No. 92-26, § 2, 4-21-92; Ord. No. 94-15, § 3, 1-20-94)

Sec. 31-106. Financial responsibility or insurance requirements.

(a) No passenger motor carrier vehicle shall be permitted to operate without the operator having first obtained and filed with CSD a certificate of insurance on forms provided by CSD for each vehicle showing automobile liability insurance coverage with limits of liability no less than fifty thousand dollars (\$50,000.00) for one (1) passenger and one hundred thousand dollars (\$100,000.00) for all passengers for injuries or death arising out of any one (1) occurrence, and fifty thousand dollars (\$50,000.00) for damage to property arising out of any one (1) occurrence. Any vehicle with a seating capacity in excess of fifteen (15) shall provide additional minimum limit for injury or death of ten thousand dollars (\$10,000.00) per passenger seat of each vehicle.

(b) The insurance required in this section shall be written by an insurance company authorized to do business in the State of Florida.

(c) The certificate of insurance shall be endorsed to provide for thirty (30) days' notice by registered mail to CSD of any material change, cancellation or expiration. No policy will be accepted for a shorter period than six (6) months.

(d) Unless an operator has furnished CSD with satisfactory evidence of the required insurance coverage prior to the expiration of the thirty (30) days' notice specified in paragraph (c) of this section, or upon a third notice of cancellation within twelve (12) months, the certificate shall be suspended forthwith by the Director and surrendered to CSD pending a hearing to determine whether the said certificate should be revoked.

(e) Operators may comply with these insurance requirements if found to be a qualified self-insurer with minimum limit required by paragraph (a) of this section by the State of Florida. An operator's failure to maintain the requirements of a qualified self-insurer shall be grounds for CSD to take the actions described in paragraph (d) above.

(Ord. No. 81-17, § 7, 2-17-81; Ord. No. 87-11, § 2, 3-17-87)

Sec. 31-107. Safety regulation.

(a) *Adoption; enforcement.* The Consumer Services Department (CSD) shall adopt and enforce all safety regulations of the United States Department of Transportation that are applicable to passenger motor carriers and passenger motor carrier vehicles, as required for operation in an urban area. Any operator applying for a certificate or permit requiring or authorizing the use of a specialized or unique vehicle, not contemplated in United States Department of Transportation regulations, shall submit, subject to approval by CSD, safety regulations for each specific type of vehicle as to equipment, operation, maintenance, seating capacity and inspection of such vehicles, consistent with the vehicle manufacturer specifications, which must be submitted by the operator. The CSD shall develop special standards to be applied to motor vehicles older than five (5) model years which are operated as passenger motor vehicles in order to assure that such vehicles are safe.

(b) *Vehicle age.* No vehicle older than fifteen (15) model years old shall be operated as a passenger motor carrier.

(c) *Inspection for compliance.* CSD shall provide for semi-annual inspection of each vehicle for compliance with the foregoing standards. The CSD shall provide for annual inspection of each vehicle between and including one (1) and two (2) model years old; CSD shall provide for semi-annual inspection of each vehicle between and including three (3) and four (4) model years old; CSD shall provide for quarterly inspection of each vehicle between and including five (5) and fifteen (15) model years old for compliance with the foregoing standards. CSD shall charge a fee for such inspections. In addition to regular inspections, the CSD may also inspect any passenger motor vehicle at any time. The results of each inspection shall be recorded and a copy provided the operator. Any vehicle failing to meet required safety standards shall not be operated as a passenger motor vehicle until such time as the vehicle satisfactorily passes inspection. Notwithstanding the foregoing, the quarterly inspection of each vehicle between and including five (5) and fifteen (15) model years old to determine compliance with the foregoing vehicle condition standards shall commence on May 1, 1995 and the quarterly inspection of each such vehicle to determine compliance with the foregoing vehicle safety and mechanical standards shall be reduced to semi-annual inspection until July 1, 1998.

(Ord. No. 81-17, § 8, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 88-118, § 2, 12-6-88; Ord. No. 90-134, § 1, 12-4-90; Ord. No. 92-66, § 3, 7-7-92; Ord. No. 93-85, § 2, 9-7-93; Ord. No. 94-190, § 2, 10-7-94; Ord. No. 95-99, § 2, 6-6-95; Ord. No. 96-186, § 2, 12-17-96)

Sec. 31-108. Rules for operation.

(a) *Color scheme.* Each operator shall adopt and use, after approval by the CSD, a distinctive, uniform, and decorative color scheme for all passenger motor carrier vehicles certified pursuant to this article. The CSD shall refuse to approve any proposed color scheme which will infringe upon any color scheme already in use by another operator. No other color scheme shall be employed until approved by the CSD.

(b) *Disposal of personal property.* Personal property left by a passenger in any passenger motor vehicle shall, upon its discovery by or delivery to the chauffeur of said vehicle, be reported immediately to and deposited at the operator's office, where a record of the same shall be maintained and the property held for the owner for a period of six (6) months, at the end of which it shall become the property of the finder. The operator shall be responsible for chauffeur compliance with this section.

(c) *Compliance with other legislation.* Every operator shall fully comply with all ordinances, rules and regulations of the County and all statutes of the State of Florida applicable to the operation of passenger motor vehicles.

(d) *Accessibility of service to the public; accessibility of records for regulatory purposes.* Each operator shall maintain and list with CSD a central place of business, where a listed telephone number is operative and where business records and daily manifests set forth herein are kept.

(e) *Records required.* Each operator shall maintain accurate records of all financial and operating information as may be required by CSD. CSD shall be granted access to these records for the purpose of inspection and/or copying same, upon five (5) days' prior notice. All such records and information shall be confidential except that they will become public records for the purpose of revocation or suspension hearings, or, if required by the Board of County Commissioners, for the purpose of approving or disapproving applications for new certificates or transfers of certificates. Each operator shall annually furnish financial and operating information to CSD on forms and in the manner prescribed by CSD.

(f) *Antidiscrimination.* No operator or chauffeur shall refuse or neglect to transport to and from any place in the County any orderly person requesting service regardless of race, sex, religion, national origin, age, marital status or handicap, who is willing and able to pay the prescribed fare.

(g) *Vehicle numbering system.* Each operator shall adopt a vehicle numbering system approved by CSD, which does not conflict with those in use by other operators.

(h) *Manifest or trip sheet required.* Every operator shall maintain a manifest or trip sheet on a form approved by CSD, which shall include, but not be limited to, the following information on each trip: Name of chauffeur, vehicle number, date, time, origin, destination, number of passengers, and rate of fare. Operators shall not destroy, mutilate, alter or otherwise deface any daily manifests without CSD approval. All manifests shall be available for inspection and/or copying by CSD or any police agency during regular business hours and shall be retained for three (3) years.

(i) [*Prohibitions for operators .*] No operator shall:

(1) Knowingly allow or permit any person to operate a passenger motor vehicle while his ability or alertness is so impaired, or is likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him to begin or continue to operate the motor vehicle; or

- (2) Permit or authorize any chauffeur or other person to operate any passenger motor vehicle without that vehicle's current valid certificate displayed therein; or
 - (3) Operate or permit or authorize anyone else to operate any passenger motor vehicle unless and until that person is issued a chauffeur's registration in accordance with Section 31-105.
- (j) [*Vehicle prohibitions.*] No operator shall allow vehicles permitted under this article to:
- (1) Stop, stand, park or await employment at a marked taxicab stand.
 - (2) Display the word(s) "taxicab," "taxi" or "cab" on the vehicle exterior.
 - (3) Be equipped with a taximeter.
 - (4) Operate as a taxicab, as defined in the County Code.
- (k) [*Separate phone numbers for jitney and taxi service.*] No operator shall use for the purpose of advertising or requesting services to be provided under this article telephone number(s) that is used to request or furnish taxicab services.
(Ord. No. 81-17, § 9, 2-17-81; Ord. No. 87-11, § 2, 3-17-87)

Sec. 31-109. Rates and fares.

- (a) [*Applicability.*] The provisions of this section shall be the exclusive method for the establishment of passenger motor carrier rates through Miami-Dade County.
- (b) *Rates and fares to be charged.* It shall be unlawful for any operator to charge, demand, request or accept any fare other than the rates and fares established pursuant to this article.
- (c) *Methods of establishing rates.* Each operator may establish rates and fares under one (1) or both of the following categories:
- (1) Rates and fares:
 - a. The operator's initial rate will be that rate or fare proposed in the application for certificate and will become effective upon issuance of the certificate.
 - b. An operator may change the rate or fare by filing a proposed rate or fare, thirty (30) days prior to its effective date, with CSD. The proposed rate or fare for jitney and fixed route service shall be posted within the passenger compartment section of each vehicle at least fifteen (15) days before it becomes effective.
 - c. The rate(s) or fare structure for jitney or fixed route service shall be clearly set forth as a schedule of charges based on service elements understandable by

the public, posted within the passenger compartment and on the exterior located adjacent to the entrance of each vehicle.

d. Each operator shall post, in the business offices serving the public, a schedule of rates and fares and shall provide information of such rates and fares on request for service.

(2) Contract rates. Each operator may establish through written contract, rates and fares other than the public rates and fares. Such rates and fares shall become effective when the contract is filed with CSD.

(Ord. No. 81-17, § 10, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 98-105, § 1, 7-9-98; Ord. No. 00-139, § 1, 11-14-00)

Sec. 31-110. Enforcement.

(a) This article shall be enforced by authorized personnel of CSD, and by the Miami-Dade Police Department, and may be enforced by another police agency within Miami-Dade County. CSD shall prepare and distribute to all authorized enforcement agencies an enforcement manual outlining procedures for the detection, reporting and issuance of citations or deficiency reports for violations of this article.

(b) CSD shall develop a deficiency or warning system through which operators are given written notice of minor violations and a specified period of time to correct same. For more serious or repeated violations, CSD shall develop a citation form. Authorized personnel will issue citations as official notice of violations. Civil violations by chauffeurs shall be processed under Chapter 8CC of the Code.

(c) Deficiency reports and/or citations shall be issued to the party responsible for the violation as set forth in this article. Any person issued a deficiency report or a citation shall sign and accept it. Notice is given to a chauffeur for a violation involving the vehicle under his control shall be deemed notice to the operator.

(d) Whether a corporation, partnership or association violates any of the provisions of this article, such violation shall be deemed also to be that of the individual officers, directors, partners or agents of such corporation who have personally authorized, personally ordered, or personally done any of the actions constituting in whole or in part such violation, and any such officer, director, partner, or agent may be fined in the same manner and to the same extent as herein provided for the individual.

(e) Notwithstanding the provisions of this section, the Director may secure enforcement of the provisions of this article by any legal action necessary, such as application to any court for injunctive relief or other appropriate relief.

(Ord. No. 81-17, § 17, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 94-15, § 3, 1-20-94)

Sec. 31-111. Penalties.

(a) In addition to any other penalties provided by law, a fine not to exceed one hundred dollars (\$100.00) may be imposed for each and every violation of the provisions of this article, provided that violations which result in fines pursuant to this section shall not be the basis for revocation or suspension proceedings except that five (5) or more violations resulting in fines within any twelve-month period shall constitute grounds for revocation or suspension proceedings.

(b) Failure to correct items recorded on a deficiency report by the time of deadline shall cause a citation to be issued for each such item. In the case of chauffeurs, for civil violations a citation shall be issued under Chapter 8CC of the Code.

(c) Except for chauffeurs receiving civil violations, each person issued a citation shall within ten (10) days either satisfy the citation by payment to CSD of the fine stated in subsection (a) hereof or by filing a written request for a hearing on the charges. Failure to do one (1) of the foregoing may result in revocation or suspension proceedings or penalties in accordance with subsection (f) hereof.

(d) Except for chauffeurs receiving civil violations, the hearings specified in subsection (c) hereof shall be within the jurisdiction of the County Court and the Clerk of the Court is hereby empowered to dispose of the case and fines assessed through normal procedure.

(e) Anyone who engages a passenger motor vehicle with intent to defraud the chauffeur or operator shall be in violation of this article and subject to the penalty provided for in subsection (f) hereof.

(f) Violations of Section 31-103 shall be punishable by fines and/or imprisonment as follows: (1) the first such violation shall be punishable by fines of not less than two hundred fifty dollars (\$250.00) or more than one thousand dollars (\$1,000.00) and/or imprisonment not to exceed ten (10) days; (2) the second such violation shall be punishable by fines of not less than one thousand dollars (\$1,000.00) or more than five thousand dollars (\$5,000.00) and/or imprisonment not to exceed ten (10) days; and (3) the third and subsequent violation shall be punishable by fines of not less than five thousand dollars (\$5,000.00) or more than ten thousand dollars (\$10,000.00) and/or imprisonment not to exceed ten (10) days. Violations of revocation or suspension ordered under Section 31-112 shall be punishable by fines of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) and/or imprisonment not to exceed ten (10) days.

(Ord. No. 81-17, § 12, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 92-52, § 1, 6-2-92; Ord. No. 93-77, § 2, 7-29-93; Ord. No. 94-15, § 3, 1-20-94)

Sec. 31-112. Suspension or revocation proceedings.

(a) [*Criteria for consideration of proceedings.*] Except as otherwise specified, certificates, permits, and registrations (issued pursuant to this article) shall be subject to suspension or revocation by the Director as follows:

(1) *Certificates.* Upon notice and hearing as hereinafter specified when it shall appear that:

- a. The holder thereof has failed or neglected to render the full service authorized by the certificate for a total period of eight (8) months during any calendar year; or
- b. The holder thereof has been convicted of a felony or any criminal offense involving moral turpitude; or
- c. The certificate was obtained by an application in which any material fact was omitted or falsely stated; or
- d. The holder thereof has permitted his passenger motor carrier vehicle to be operated in violation of any law; or
- e. The holder thereof has failed to comply with or has willfully violated any of the provisions of this article; or
- f. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.

(2) *Permits.* Upon notice and hearing as hereinafter specified when it shall appear that:

- a. The permit was obtained by an application in which any material fact was omitted or falsely stated; or
- b. The holder thereof has failed to comply with any provisions of this article or any lawful order of the Director; or
- c. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.

(3) *Registrations.* Upon notice and hearing as hereinafter specified when it shall appear that:

- a. The chauffeur has failed to comply with or has willfully violated any of the provisions of this article; or
- b. The chauffeur has pled guilty or nolo contendere to driving under the influence of alcoholic beverages, model glue or any substance controlled under Chapter 893, Florida Statutes, or has been convicted of same; or
- c. The registration was obtained by an application in which any material fact was omitted or falsely stated; or
- d. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.

(b) *Notice of hearing.* All hearings required by this section shall be preceded by a minimum of ten (10) days' notice. Said notice shall specify the Director's proposed action and the grounds upon which the action is predicated. The operator or chauffeur (as the case may be) may be represented by legal counsel

and shall be entitled to present his defense to the proposed action. Failure to appear at a duly noticed hearing shall be deemed a waiver of the right to hearing and an admission of the acts specified in the notice. All such hearings shall be conducted before a hearing examiner who shall not have responsibility for the enforcement of this article and who shall be designated by the Director, and insofar as is practicable in accordance with the rules of civil procedure governing the procedure in Circuit Court, except as may be provided in this Code or by rules adopted by the Board of County Commissioners. All such hearings shall be reported and, at the request of any party, transcribed.

(c) *Finding, conclusion and recommendation.* Within a reasonable time after the conclusion of the hearing, the hearing examiner shall submit to the Director a statement of findings, conclusions and recommendations. If the hearing examiner affirms the Director's proposed action, the appellant shall pay the administrative costs of the hearing, unless such decision is reversed on subsequent appeal. The Director shall promptly notify all parties of his or her decision.

(d) *Powers.* The hearing examiner shall have the power to administer oaths, subpoena witnesses upon the written request of any interested party and may compel the production of records, books and papers. Should the hearing examiner, without good cause, refuse to subpoena witnesses or compel the production of books, records or papers, then any interested party may, without cost to the petitioner, petition the County Court to order the appearance of any witness or witnesses or order the production of any books, records or papers necessary to a fair and proper hearing. Failure of any witness ordered to appear or failure of any person ordered to produce books, records or papers may constitute a contempt of court and may be punishable as may any other contempt of court.

(e) *Penalties.* Suspensions pursuant to this section shall not exceed six (6) months. Three (3) or more suspensions within any twelve-month period may constitute grounds for revocation of the certificate, permit, or registration.

(f) *Appeals.* The Director's decision may be appealed to the County Manager within ten (10) days of the date of said decision. Such appeal shall not stay the Director's decision. Upon such an appeal, the County Manager shall consider the transcript of the hearing and all evidence produced at the hearing. No further testimony or exhibits shall be permitted. The County Manager shall, within twenty (20) days, on the basis of the record established before the Director, either affirm, reverse or modify the Director's decision.

Appeals from the County Manager's decisions pursuant to this section shall be to the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, in accordance with the Florida Rules of Appellate Procedure.

(Ord. No. 81-17, § 13, 2-17-81; Ord. No. 88-118, § 2, 12-6-88)

Sec. 31-113. Exclusions.

The following passenger motor carriers and/or passenger motor vehicles are exempt from the requirements of this article:

- (a) Ambulances and other vehicles required to be licensed under the provisions of Chapter 401, Florida Statutes.
- (b) Motor vehicles used exclusively in transporting children to and from schools when regulated by a Florida Statute and/or a Miami-Dade County ordinance.
- (c) For-hire vehicles with a seating not to exceed eight (8) passengers subject to the provisions of a Miami-Dade County or municipal ordinance.
- (d) Motor vehicles used for the transportation of passengers between the vicinity of their respective residences and the vicinity of their respective places of work, when driven by a person traveling between his residence and his place of work in an arrangement commonly known as a "car pool" or a "van pool."
- (e) A passenger motor carrier operating pursuant to a valid Interstate Commerce Commission certificate which is providing interstate transportation service within the jurisdiction of the Interstate Commerce Commission. As used in this subsection (e), "interstate transportation service" means the provision of transportation over a route through more than one (1) state. Said interstate transportation service must be substantial, actual and bona fide.
- (f) Motor vehicles owned and operated by a governmental unit in a local public transportation system, commonly referred to as a "mass transit" when controlled by a Miami-Dade County ordinance.
- (g) Federal, State, County and municipal vehicles when operated by a government employee providing transportation services without compensation.
- (h) Motor vehicles used exclusively to provide transportation without compensation and purely incidental to a person's primary business and requiring the performance of substantial services in addition to transportation.
- (i) Social service transportation of persons without compensation by private, nonprofit organization subject to State of Florida and/or federal government regulatory and safety standards.
- (j) Motor vehicle providing special operations service, contract carrier service or charter service having an overall length in excess of thirty (30) feet or a rated seating capacity in excess of twenty-eight (28) persons.
- (k) A passenger motor carrier under contract to Miami-Dade County pursuant to a State statute or County ordinance who has the exclusive right to provide demand ground transportation services at Miami International Airport, and is subject to the safety and insurance requirements of a County ordinance.
- (l) Passenger motor carriers operating under authority of a municipal regulatory ordinance adopted prior to July 1, 1974, are exempt from the provisions of this article for those services provided in accordance with their municipal certificate(s).

(m) Motor vehicles owned, operated by or operated under contract with a municipality in a local public transportation system providing circulator service when authorized by an interlocal agreement with Miami-Dade County which has been approved by the Board. As used herein, "circulator service" means the provision of fixed route or semi-fixed route transportation service where at least seventy (70) percent of the route is within one (1) municipality. The interlocal agreement and any certificate of transportation, chauffeur's registration and permit issued to provide circulator service pursuant to an interlocal agreement shall require, among other things, that the municipality, operator, vehicles and chauffeurs comply with safety, mechanical and vehicular standards mandated by the Miami-Dade Transit Agency and the CSD, and any applicable State or Federal requirements. Notwithstanding any other provision of this article, the CSD may administratively issue certificates of transportation to municipalities providing circulator service or to operators under contract with a municipality providing circulator service pursuant to an interlocal agreement with Miami-Dade County. The provisions of Section 31-103(e), (f) and (g)(4) shall not apply when the CSD administratively issues a certificate of transportation pursuant to this paragraph. Where a municipality intends to provide circulator service pursuant to a contract with a third party, said municipality shall give Miami-Dade County the opportunity to submit a bid or proposal to provide that transportation service.
(Ord. No. 81-17, § 14, 2-17-81; Ord. No. 95-139, § 1, 7-25-95; Ord. No. 97-127, § 1, 7-22-97)

Sec. 31-114. Duties of the Consumer Services Department.

(a) In addition to the duties and responsibilities specified in this article, CSD shall be charged with the following duties and responsibilities.

- (1) Process, investigate and prepare all reports required by this article.
- (2) Investigate and prepare reports on alleged violations of this article.
- (3) Enforce the provisions of this article.
- (4) Attempt to resolve complaints received from any source concerning the industry.
- (5) Develop and implement, in cooperation with the industry, service expansion and improvements.
- (6) Provide technical assistance to the industry.
- (7) Create and render technical assistance to a passenger motor carrier advisory group comprised of representatives from consumers, the industry, transportation-related interests and public interest organizations. The role of the advisory group shall be to monitor the effectiveness of the article, improve communication between the County and parties interested in passenger motor carrier transportation, and help develop improved transportation services.
- (8) Perform any other functions assigned by the County Manager.

(b) The Director may propose and the County Manager may promulgate further rules and regulations to carry out the provisions of this article, which rules and regulations, when approved by the Board of County Commissioners, shall have the force and effect of law.

(c) Whenever in this article a fee is charged or is required to be paid, the amount of such fee shall be established by administrative order of the County Manager approved by the Commission. Such fees shall be deposited in a separate Miami-Dade County fund and shall be used exclusively to accomplish the regulatory purposes of this article. The amount of each fee established hereunder shall be reasonably related to the cost of the services and regulation provides therefor.

(Ord. No. 81-17, § 15, 2-17-81; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 88-118, § 2, 12-6-88)

Sec. 31-115. Special provisions.

(a) Notwithstanding anything to the contrary, the provisions of this article shall not be applicable within those municipalities which regulated passenger motor carrier transportation as of July 1, 1974, and such municipalities shall be exempt from this article.

(b) The provisions of this article shall be the exclusive regulations applicable to the provision of and operation of passenger motor carrier transportation services in Miami-Dade County. Notwithstanding the provisions of any municipal ordinance, resolution or agreement to the contrary, from and after the effective date of this article, no municipality shall authorize, establish, change, alter, amend, or otherwise regulate passenger motor carrier transportation in Miami-Dade County. Regulations established by this article shall be uniform throughout Miami-Dade County both in the incorporated and unincorporated areas without regard to municipal boundaries. All municipal ordinances or resolutions to the contrary are hereby superseded and rescinded.

(c) Any person operating a passenger motor vehicle within Miami-Dade County on February 2, 1981, upon the authority of a valid certificate of public convenience and necessity or other valid permit issued by the Florida Public Service Commission or a valid certificate of public convenience and necessity issued by a municipality within Miami-Dade County regulating passenger motor vehicles, shall, upon proper proof of possession of such authority, be entitled to a Miami-Dade County certificate upon the payment of the fee required in this article, with all existing authority, limitation or restriction of the Public Service Commission or municipal certificate as of February 2, 1981, providing the County certificate shall be limited to the maximum number of vehicles operated in any one (1) month of the previous twelve (12) months prior to February 2, 1981. Holders of municipal certificates shall only be issued a certificate for each vehicle that is not also operating under authority of a Florida [Public] Service Commission certificate. No Miami-Dade County certificate shall be issued in accordance with this section unless same has been applied for no later than fifty (50) days after the effective date of the article, provided that on each certificate applied for, a separate and distinct vehicle meeting the requirements of this article is listed and a proper and timely application and fee is submitted in accordance with this section. A separate and

identifiable motor vehicle cannot be used to apply for more than one (1) certificate under this section.

(d) Any person operating a passenger motor vehicle upon the effective date of Ordinance No. 81-17 must make application for a certificate within ten (10) days. Those persons who applied within the time period specified in the first sentence of this subsection (d) shall be issued a Miami-Dade County certificate for those operations specified in the application which have been continuously performed in accordance with the terms and conditions of Sections 31-106 and 31-108 of this article. The County certificate issued hereunder shall not limit the number of vehicles authorized.

(e) On the effective date of this article, the existing rate(s) of operators entitled to the issuance of certificate pursuant to subsection (b) of this section shall be that rate in effect on February 2, 1981, and said rate may only be changed in accordance with the provisions of this article.

(f) Each chauffeur authorized on the effective date of this article by a certificate holder to drive a passenger motor vehicle shall be issued by CSD, at no cost, a temporary ninety-day chauffeur registration upon proof of possession of a valid Florida chauffeur license. Upon expiration of the temporary registration, said chauffeur must fully comply with Section 31-105.

(g) Any person operating a passenger motor vehicle designed for carrying ten (10) to twenty-eight (28) passengers, including driver, with an overall length of thirty (30) feet or less engaged solely in intercounty transportation or engaged in intracity transportation routes which intracity routes have been operated continuously from January 1, 1990 through July 1, 1990 in compliance with applicable safety rules and regulations promulgated under Section 316.70 Florida Statutes must make application for a certificate of transportation and pay a two hundred and twenty-five dollar (\$225.00) application fee therefor to CSD by August 17, 1990. Those persons who apply and pay the required application fee by August 17, 1990 shall be issued a certificate of transportation for those operations which meet the requirements of the preceding sentence. Appeal of the CSD Director's decision on any application hereunder must be filed with the County Manager within ten (10) days of the issuance of the Director's decision. Such certificate shall be subject to the requirements of Section 31-101; 31-102; 31-103(a), (b), (c)(1)--(3), (8) and (10), and (j) through (o); 31-104; 31-105; 31-106; 31-107; 31-108; 31-110; 31-111; 31-112 and 31-115. A certificate of transportation issued hereunder shall expire July 1, 2010, or ten (10) years after any change in ownership of any such passenger motor vehicle.

(h) Any private passenger motor carrier providing transportation pursuant to a contract with Miami-Dade County, acting on behalf of the Miami-Dade Transit Agency, shall not be allowed to provide transportation on any route on which Miami-Dade County Metrobus is providing service, when the expressed purpose of such contract is to incorporate private passenger motor carriers into Miami-Dade County's public transportation network.

(i) No person or business entity shall be awarded a contract by Miami-Dade County to provide transportation on more than twenty-five (25) percent of Jitney Transportation Network Service. No business entity shall be awarded a contract by Miami-Dade County to provide transportation on a Jitney Transportation Network Route, if a person with a

controlling financial interest in that business entity has a controlling financial interest in another business entity or entities, which provide or have agreed to provide transportation on more than twenty-five (25) percent of the Jitney Transportation Network Service. In the event that an award of a Jitney Transportation Network Route to the lowest bidder would be in violation of this ordinance, such award shall be made to the next lowest bidder, if any award is made.

These terms used in the preceding paragraph shall have the meanings provided below:

Coordinated jitney service contract means a contract between the County and the operator of a passenger motor carrier to provide transportation on a Jitney Transportation Route, when the expressed aim of such contract is to incorporate private jitneys or other passenger motor carriers into the public transportation system of Miami-Dade County.

Jitney Transportation Network Route means such transportation route designated by the Miami-Dade Transit Agency on which passenger motor carriers will provide transportation pursuant to a coordinated jitney service contract.

Jitney Transportation Network Service means the total number of revenue miles on which private passenger motor carriers provide transportation, pursuant to a coordinated jitney service contract.

Controlling financial interest means the ownership, directly or indirectly, of ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity.

The foregoing requirements may be waived by resolution of the County Commission (1) upon a finding that a waiver is in the best interest of Miami-Dade County, and (2) that there are not enough responsive bidders or proposers with whom the County can contract to provide the necessary transportation on Jitney Transportation Network Routes, unless the provisions of this ordinance are waived.

(Ord. No. 81-17, § 16, 2-17-81; Ord. No. 81-46, § 1, 4-19-81; Ord. No. 85-20, § 2, 4-16-85; Ord. No. 87-11, § 2, 3-17-87; Ord. No. 90-78, § 1, 7-24-90; Ord. No. 93-116, § 1, 11-3-93; Ord. No. 93-117, § 1, 11-3-93)

Sec. 31-116. Seizure, impoundment and forfeiture.

(A) *Seizure.* Police officers or such other employees as may be designated by the County Manager are authorized to seize and impound any passenger motor vehicle which such officer or employee has probable cause to believe is being operated in violation of Section 31-103(a), 31-104, 31-105(a), 31-106, 31-107, 31-108, 31-109, 31-111(b), or 31-111(c) of Article III of Chapter 31 of the Miami-Dade County Code. A vehicle seized in accordance with this subsection shall be removed to a designated secured facility.

(B) *Notice of seizure.*

(1) Within twenty-four (24) hours of a seizure, as described in Section 31-116(A), a police officer or other designated county employee shall make a diligent search and inquiry as to the owner's name and address and make a good faith effort to give a notice of seizure in writing to said vehicle owner of the fact of such seizure, the grounds for seizure, identification of the seized vehicle and information concerning these regulations and the designated secured facility to which the vehicle was or will be taken. A copy of said notice of seizure shall also be given to the proprietor of such secured facility.

(2) Whenever an officer or designated employee seizes a vehicle under this section, and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinabove provided, then and in that event the officer or designated employee shall immediately send or cause to be sent a written report of such removal by mail to the Motor Vehicle Commissioner of the Miami-Dade Police Department.

(C) *Vehicle impoundment hearing.* Whenever the owner of record of a vehicle seized pursuant to this section makes a request of the CSD in person and in writing for a vehicle impoundment hearing within ten (10) days of seizure exclusive of Saturdays, Sundays and legal holidays, a magistrate, as provided in Section 318.32, Florida Statutes, a county court judge or a hearing examiner, who shall not have responsibility for the enforcement at this article and who shall be designated by the CSD Director, shall conduct the hearing within twenty-four (24) hours or as soon as practicable, excluding Saturdays, Sundays and legal holidays. All interested persons shall be given reasonable opportunity to be heard at the vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the magistrate, county court judge or hearing examiner determines that there is no probable cause to believe that the vehicle is subject to seizure and impoundment under subsection (A), the magistrate, county court judge or hearing examiner shall order the immediate return of the vehicle. If, after the hearing, the magistrate, county court judge or hearing examiner determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under subsection (A), the magistrate, county court judge or hearing examiner shall order the immediate return of the vehicle. If, after the hearing, the magistrate, County Court Judge or Hearing Examiner determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under subsection (A), the Magistrate, County Court Judge or Hearing Examiner shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle (1) posts with the court or CSD a cash bond in the amount of the maximum fine(s), plus any applicable towing and storage fees, or (2) pleads guilty or nolo contendere and pays in full any towing and storage fees plus the fine(s). Notwithstanding the foregoing, if, after the hearing, it is determined that there is probable cause to believe that the vehicle is subject to forfeiture proceedings pursuant to section 31-116(G), said vehicle shall not be released.

(D) *Hearing regarding Code violation charged in field enforcement report and/or complaint/arrest affidavit.* Within ten (10) days after a vehicle is seized and impounded pursuant to this section or as soon as practicable, the CSD and/or the Clerk's Office shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted regarding the Code violations charged in the field enforcement report, the complaint/arrest affidavit or other charging instrument. The hearing shall be conducted within thirty (30) days after the vehicle was

seized or as soon as practicable. The hearing shall be conducted by a magistrate, county court judge or hearing examiner. All interested persons shall be given a reasonable opportunity to be heard at the hearing.

(E) *Decisions at hearing.*

(1) If the magistrate, county court judge or hearing examiner dismisses the Code violation(s) charged in the field enforcement report, complaint/arrest affidavit or other charging document and/or finds the person charged not guilty, the magistrate, county court judge or hearing examiner shall issue an order for release of the seized vehicle without removal and storage fees.

(2) If the magistrate, county court judge or hearing examiner finds a violation of the Code, the magistrate, county court judge or hearing examiner shall assess a fine and/or jail sentence as provided in Section 31-111(f) of the Code, and removal and storage fees. The fine(s), if any, and removal and storage fees must be paid in order to obtain an order for release of the seized vehicle. A magistrate, county court judge or hearing examiner shall not issue an order releasing the vehicle where said vehicle is subject to forfeiture proceedings pursuant to Section 31-116(G).

(3) If the owner does not obtain the vehicle by the date specified in the order of release, the owner shall be responsible for any further storage fees, and payment of such fees shall be made before the release of the vehicle.

(4) A vehicle shall not be released from storage prior to the scheduled hearing specified in this subsection if the vehicle is subject to forfeiture pursuant to Section 31-116(G) of the Code.

(5) Default hearing. If the owner of the seized vehicle fails to appear for the hearing specified in Section 31-116(D), a default hearing will be held. A magistrate, county court judge or hearing examiner shall make a determination pursuant to paragraph (1) or (2) of this subdivision (E). The CSD will inform the respondent of the default determination by certified mail, return receipt requested. The information mailed to the owner shall include the provisions of Section 31-116 herein concerning abandoned vehicles. The respondent may comply with the default determination within seven calendar days of such mailing or move to vacate such default determination. In the event that such default determination is vacated, the respondent shall be entitled to a hearing de novo on the original complaint/arrest affidavit, field enforcement report or other charging document. Such hearing shall be scheduled within ten (10) working days of the order vacating the default determination or as soon as practicable.

(F) *Appeals.* If found in violation of one (1) or more of the provisions referenced in Section 31-116(A), the assessed fine(s) together with removal and storage fees must be paid in order to appeal. However, if the vehicle is the subject of a forfeiture proceeding pursuant to Section 31-116(G) of the Code, only the fine, if any, must be paid in order to appeal. If upon appeal the decision is reversed in whole or part, the appellant shall receive a refund of the relevant fine(s) and fees.

(G) *Forfeiture.*

(1) *Forfeiture.* In addition to the penalties set forth in Sections 31-111 and 31-112 of the Code, any passenger motor vehicle used to commit three (3) or more violations of Section 31-103(a) of the Code on at least three (3) separate occasions within a thirty-six (36) month period, where all of such violations were committed on or after August 6, 1993, shall be subject to forfeiture upon notice and judicial determination.

(2) *Determination by the CSD Director.* The Director of the CSD shall determine whether to pursue the remedy of forfeiture. Miami-Dade County shall not use the seized vehicle for any purpose until the rights to, interest in, and title to the seized property are perfected in accordance with this section. This section does not prohibit use or operation necessary for reasonable maintenance of seized vehicles. Reasonable efforts shall be made to maintain seized vehicles in such a manner as to minimize loss of value.

(3) Vehicles subject to forfeiture may be seized provided that the owner is notified at the time of the seizure or by certified mail, return receipt requested, that there is a right to an adversarial preliminary hearing after the seizure to determine whether probable cause exists to believe that such vehicle has been used to commit three (3) or more violations of Section 31-103(a) of the Code on at least three (3) separate occasions within a thirty-six (36) month period, where all of such violations were committed on or after August 6, 1993. The CSD or other authorized law enforcement agencies shall make a diligent effort to notify the owner of the seizure. Notice provided by certified mail must be mailed within five (5) working days of the seizure and shall state that the owner may request an adversarial preliminary hearing within fifteen (15) days of receiving such notice. When a post-seizure adversarial preliminary hearing as provided herein is requested, it shall be held within ten (10) days after the request or as soon as practicable. If the court determines that the required probable cause exists, the court shall order the property restrained by the least restrictive means to protect against disposal, waste, or continued illegal use pending disposition of the forfeiture proceeding. If the court orders the release of the vehicle, all fines, if any, and towing and storage fees shall be paid prior to release.

(4) Neither replevin nor any other action to recover any interest in such property shall be maintained in any court, except as provided in this section; however, such action may be maintained if forfeiture proceedings are not initiated within forty-five (45) days after the date of seizure. However, if good cause is shown, the court may extend the aforementioned prohibition to sixty (60) days.

(5) The court shall order the forfeiture of any other property of a claimant of a vehicle, excluding lienholders, up to the value of the vehicle subject to forfeiture under this section if the vehicle:

- (a) Cannot be located;
- (b) Has been transferred to, sold to, or deposited with, a third party;
- (c) Has been placed beyond the jurisdiction of the court;

(d) Has been substantially diminished in value by any act or omission of the person in possession of the property; or

(e) Has been commingled with any property which cannot be divided without difficulty.

(6) Exceptions:

(a) No vehicle shall be forfeited under the provisions of this section if the owner of such vehicle establishes by a preponderance of the evidence that she or he neither knew, nor should have known after a reasonable inquiry, that such vehicle was being used or was likely to be used in violation of Section 31-103(a) of the Code.

(b) No bona fide lienholder's interest shall be forfeited under the provisions of this section if such lienholder establishes by a preponderance of the evidence that she or he neither knew, nor should have known after a reasonable inquiry, that such property was being used or was likely to be used in violation of Section 31-103(a) of the Code, that such use was without his or her expressed or implied consent, and that the lien had been perfected in the manner prescribed by law prior to such seizure.

(c) No vehicle which is rented or leased from a company engaged in the business of renting or leasing vehicles shall be forfeited under the provisions of this section if the company establishes by a preponderance of the evidence that it neither knew, nor should have known, that the vehicle was being used or was likely to be used in violation of Section 31-103(a) of the Code. When a vehicle which is rented or leased from a company engaged in the business of renting or leasing vehicles is seized under this section, upon learning the address or phone number of said company, the CSD shall, as soon as practicable, inform said company that the vehicle has been seized.

(d) Any interest in, title to, or right to a vehicle titled or registered jointly by the use of the conjunctives "and," "and/or," or "or" held by a co-owner shall not be forfeited if the co-owner establishes by a preponderance of the evidence that such co-owner neither knew, nor had reason to know, after reasonable inquiry, that such property was used or was likely to be used in violation of Section 31-103(a) of the Code. When the interests of each culpable co-owner are forfeited, any remaining co-owners shall be afforded the opportunity to purchase the forfeited interest in, title to, or right to the property from Miami-Dade County. If any remaining co-owner does not purchase such interest, Miami-Dade County may hold the property in co-ownership, sell its interest in the property, liquidate its interest in the property, or dispose of its interest in the property in any other reasonable manner.

(7) Forfeiture proceedings.

(a) It is the policy of Miami-Dade County that the provisions of this section are adopted to deter and prevent the continued use of passenger motor vehicles to violate Section 31-103(a) of the Code while protecting proprietary interests of innocent owners and lienholders and to authorize the use of the proceeds collected under this section as supplemental funding for enforcement purposes.

(b) The Florida Rules of Civil Procedure shall govern forfeiture proceedings under this section unless otherwise specified herein.

(c) Any trial on the ultimate issue of forfeiture shall be decided by a jury, unless such right is waived by the claimant of the vehicle through a written waiver or on the record before the court conducting the forfeiture proceeding.

(d) Miami-Dade County shall promptly proceed against the vehicle by filing a complaint in the circuit court.

(e) (i) The complaint shall be styled, "in RE: FORFEITURE OF _____" (followed by the name or description of the vehicle). The complaint shall contain a brief jurisdictional statement, a description of the subject matter of the proceeding, and a statement of the facts sufficient to state a cause of action that would support a final judgment of forfeiture. The complaint must be accompanied by a verified supporting affidavit.

(ii) If no person entitled to notice requests an adversarial preliminary hearing, as provided in Section 31-116(G)(3), the court, upon receipt of the complaint, shall review the complaint and the verified supporting affidavit to determine whether there was probable cause for the seizure. Upon a finding of probable cause, the court shall enter an order showing the probable cause finding.

(iii) The court shall require any claimant of a vehicle who desires to contest the forfeiture to file and serve upon the attorney representing Miami-Dade County any responsive pleadings and affirmative defenses within twenty (20) days after receipt of the complaint and probable cause finding.

(f) (i) Miami-Dade County shall serve notice of the forfeiture complaint by certified mail, return receipt requested, to each person having a security interest in the vehicle. Miami-Dade County shall also publish notice of the forfeiture complaint twice each week for two (2) consecutive weeks in a newspaper of general circulation in Miami-Dade County.

(ii) The notice shall, in addition to stating that which is required by Section 31-116(G)(3) describe the property; state the county, place, and date of seizure; state the governmental entity holding

the seized property; and state the name of the court in which the complaint will be filed.

(iii) Miami-Dade County shall be obligated to make a diligent search and inquiry as to the owner of the vehicle, and if, after such diligent search and inquiry, Miami-Dade County is unable to ascertain any person entitled to notice, the actual notice requirements by mail shall not be applicable.

(g) When the claimant of the vehicle and Miami-Dade County agree to settle the forfeiture action prior to the conclusion of the forfeiture proceeding, the settlement agreement shall be reviewed, unless such review is waived by the claimant of the vehicle in writing, by the court or a mediator or arbitrator agreed upon by the claimant and Miami-Dade County.

(h) Upon clear and convincing evidence that the seized vehicle was used to commit a third or subsequent violation of Section 31-103(a) of the Code on at least three (3) separate occasions within a thirty-six (36) month period, where all of such violations were committed on or after August 6, 1993, the court shall order the seized property forfeited to Miami-Dade County. As used in this subsection, a "violation" occurs when a person or entity pleads guilty or nolo contendere or is convicted or found guilty of violating Section 31-103(a) of the Code using the vehicle subject to forfeiture. The final order of forfeiture by the court shall perfect in Miami-Dade County right, title, and interest in and to such property, subject only to the rights and interests of bona fide lienholders, and shall relate back to the date of seizure.

(i) (i) The seized property shall be released immediately to the person entitled to possession of the property as determined by the court when the claimant prevails at the conclusion of the forfeiture proceeding, and Miami-Dade County decides not to appeal.

(ii) When the claimant of the vehicle prevails at the conclusion of the forfeiture proceeding, any decision to appeal must be made by the CSD Director. If the claimant prevails on appeal, Miami-Dade County shall immediately release the seized property to the person entitled to possession of the property as determined by the court.

(j) Disposition of forfeited property where no lien. When Miami-Dade County obtains a final judgment granting forfeiture of a vehicle, it may elect to:

(i) Retain the property for the County's use;

(ii) Sell the property at public auction or by sealed bid to the highest bidder; or

(iii) Salvage, trade, or transfer the vehicle to any public or nonprofit organization.

(k) Disposition of forfeited property where lien. If the forfeited vehicle is subject to a lien preserved by the court as provided in Section 31-116(G)(6)(b), Miami-Dade County shall:

- (i) Sell the property with the proceeds being used towards satisfaction of any liens; or
- (ii) Have the lien satisfied prior to taking any action authorized by Section 31-116(G)(7)(j).

(l) Priority of disbursement. The proceeds from the sale of a forfeited vehicle shall be disbursed in the following priority:

- (i) Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.
- (ii) Payment of the cost incurred by Miami-Dade County in connection with the storage, maintenance, security, and forfeiture of such property.
- (iii) Payment of court costs incurred in the forfeiture proceeding.
- (iv) The remaining proceeds shall be deposited in an Enforcement Trust Fund hereby established by the Board of County Commissioners. Such proceeds and interest earned therefrom shall be used for enforcement of the provisions of Chapter 31 of the Code.

(H) *Abandoned vehicles.*

(1) If an owner does not assert an interest in a seized vehicle by removing it from storage within the time periods specified in paragraph (2) of this Section (H), the vehicle shall be deemed abandoned. A declaration of such abandonment may be made by a circuit court judge after a duly noticed hearing, without further hearing.

(2) A vehicle shall be deemed abandoned, pursuant to paragraph (1) herein, if an owner:

- (a) Has not removed the vehicle from storage within ten (10) days of obtaining an order of release pursuant to Section 31-116(C), (E) or (G)(7)(i) herein; or
- (b) Has not paid the fines, if any, and towing and storage fees within ten (10) days of a hearing determination of violation pursuant to Section 31-116(E)(2) herein, or within ten (10) days after notice of a default determination of violation was mailed to the owner pursuant to Section 31-116(E)(5) herein; or
- (c) Has not paid the fines, if any, and towing and storage fees within ten (10) days of denial of a motion to vacate a default determination pursuant to Section 31-116(E)(5); or

(d) Has not paid the fines, if any, and towing and storage fees within ten (10) days after a notice was mailed by the CSD to the owner that the County will not pursue the remedy of forfeiture pursuant to Section 31-116 herein.

(3) In the event that a vehicle has been deemed abandoned pursuant to paragraphs (1) and (2) of this subsection (H), the CSD shall mail to the owner a notice that the vehicle has been recovered by CSD as an abandoned vehicle and that, if unclaimed, its ownership shall vest in Miami-Dade County and it will be sold at public auction or by bid after ten (10) days from the date such notice was mailed. Such notice shall also be mailed to any lienholder or mortgagee shown in the records of the jurisdiction which issued the number of license plates on the vehicle.

(4) An owner, lienholder or mortgagee may claim the vehicle within ten (10) days from the date that the notice described in paragraph (3) of this subsection (H) was mailed, by paying the towing and storage fees due and any fine(s).

(5) In the event that an abandoned vehicle is not claimed within ten (10) days after the notice described in paragraph (3) of this subsection (H) was mailed, ownership of the abandoned vehicle shall vest in CSD after a duly noticed hearing and declaration of abandonment by a circuit court judge. The CSD may sell an abandoned vehicle at public auction or by bid. Proceeds shall be paid into the Enforcement Trust Fund.

(Ord. No. 93-77, § 1, 7-29-93)

Secs. 31-117--31-200. Reserved.